

108TH CONGRESS
1ST SESSION

S. 733

To authorize appropriations for fiscal year 2004 for the United States Coast Guard, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2003

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize appropriations for fiscal year 2004 for the United States Coast Guard, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coast Guard Author-
5 ization Act of 2003”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.

Sec. 102. Authorized Levels of military strength and training.

- TITLE III—LAW ENFORCEMENT, MARINE SAFETY, AND ENVIRONMENTAL PROTECTION

- ## TITLE IV—MISCELLANEOUS

- Sec. 401. Conveyance of lighthouses.
Sec. 402. Loran-C.

1 **TITLE I—AUTHORIZATION**
2 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FIS-**
3 **CAL YEAR 2004.**

4 There are authorized to be appropriated for necessary
5 expenses of the Coast Guard for fiscal year 2004 the fol-
6 lowing amounts:

- (1) For the operation and maintenance of the Coast Guard, \$4,729,000,000, of which \$25,000,000

1 shall be derived from the Oil Spill Liability Trust
2 Fund.

3 (2) For the acquisition, construction, rebuild-
4 ing, and improvement of aids to navigation, shore
5 and offshore facilities, vessels, and aircraft, includ-
6 ing equipment related thereto, \$775,000,000 to re-
7 main available until expended, of which \$20,000,000
8 shall be derived from the Oil Spill Liability Trust
9 Fund to carry out the purposes of section
10 1012(a)(5) of the Oil Pollution Act of 1990.

11 (3) For research, development, test, and evalua-
12 tion of technologies, materials, and human factors
13 directly relating to improving the performance of the
14 Coast Guard's mission in support of search and res-
15 cue, aids to navigation, marine safety, marine envi-
16 ronmental protection, enforcement of laws and trea-
17 ties, ice operations, oceanographic research, and de-
18 fense readiness, \$22,000,000, to remain available
19 until expended, of which \$3,500,000 shall be derived
20 from the Oil Spill Liability Trust Fund.

21 (4) For retired pay (including the payment of
22 obligations otherwise chargeable to lapsed appropria-
23 tions for this purpose), payments under the Retired
24 Serviceman's Family Protection and Survivor Ben-
25 efit Plans, and payments for medical care of retired

personnel and their dependents under chapter 55 of title 10, United States Code, \$1,020,000,000, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), \$17,000,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) \$16,000,000, to remain available until expended; and

(B) \$2,000,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

**SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH
AND TRAINING.**

(a) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2004.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2004.

(b) TRAINING STUDENT LOADS FOR FISCAL YEAR 2004.—For fiscal year 2004, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,250 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,150 student years.

TITLE II—COAST GUARD PERSONNEL, FINANCIAL, AND PROPERTY MANAGEMENT

SEC. 201. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by adding at the end the following:

“§ 374. Critical skill training bonus

“(a) The Secretary may provide a bonus, not to exceed \$20,000, to enlisted members who complete training in a skill designated as critical, provided at least four years of obligated active service remain on the member’s enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

1 “(b) If an enlisted member voluntarily or because of
 2 misconduct does not complete his or her term of obligated
 3 active service, the Secretary may require the member to
 4 repay the United States, on a pro rata basis, all sums paid
 5 under this section. The Secretary shall charge interest on
 6 the reimbursed amount at a rate, to be determined quar-
 7 terly, equal to 150 percent of the average of the yields
 8 on the 91-day Treasury bills auctioned during the pre-
 9 ceding calendar quarter.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
 11 ysis for chapter 11 of title 14, United States Code, is
 12 amended by inserting after the item relating to section
 13 373 the following:

“374. Critical skill training bonus.”.

14 **SEC. 202. AMEND LIMITS TO THE NUMBER OF COM-**
 15 **MANDERS AND LIEUTENANT COMMANDERS.**

16 Section 42 of title 14, United States Code, is amend-
 17 ed—

18 (1) by striking “The” in subsection (a) and in-
 19 serting “Except in time of war or national emer-
 20 gency declared by Congress or the President, the”;

21 (2) by striking “6,200.” in subsection (a) and
 22 inserting “7,100. In time of war or national emer-
 23 gency, the Secretary shall establish the total number
 24 of commissioned officers, excluding commissioned

1 warrant officers, on active duty in the Coast
2 Guard.”; and

3 (3) by striking “commander 12.0; lieutenant
4 commander 18.0.” in subsection (b) and inserting
5 “commander 15.0; lieutenant commander 22.0.”.

6 **SEC. 203. EXPANSION OF COAST GUARD HOUSING AU-**
7 **THORITIES.**

8 (a) DEFINITIONS.—Section 680 of title 14, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 “(5) The term ‘eligible entity’ means any pri-
12 vate person, corporation, firm, partnership, com-
13 pany, State or local government, or housing author-
14 ity of a State or local government.”.

15 (b) DIRECT LOANS AND LOAN GUARANTEES.—Sec-
16 tion 682 of title 14, United States Code, is amended—

17 (1) by striking the section heading and insert-
18 ing the following:

19 **“§ Direct loans and loan guarantees”;**

20 (2) by redesignating subsections (a) and (b) as
21 subsections (b) and (c), respectively;

22 (3) by inserting before subsection (b), as redes-
23 ignated, the following:

24 “(a) DIRECT LOANS.—

1 “(1) Subject to subsection (c), the Secretary
 2 may make direct loans to an eligible entity in order
 3 to provide funds to the eligible entity for the acquisi-
 4 tion or construction of housing units that the Sec-
 5 retary determines are suitable for use as military
 6 family housing or as military unaccompanied hous-
 7 ing.

8 “(2) The Secretary shall establish such terms
 9 and conditions with respect to loans made under this
 10 subsection as the Secretary considers appropriate to
 11 protect the interests of the United States, including
 12 the period and frequency for repayment of such
 13 loans and the obligations of the obligors on such
 14 loans upon default.”;

15 (4) by striking “subsection (b),” in subsection
 16 (b), as redesignated, and inserting “subsection (c),”;
 17 and

18 (5) by striking the subsection heading for sub-
 19 section (c), as redesignated, and inserting “(c) DI-
 20 RECT LOANS AND LOAN GUARANTEES.—”.

21 (c) CONFORMING AMENDMENT.—The chapter anal-
 22 ysis for chapter 17 of title 14, United States Code, is
 23 amended by striking the item related to section 682 and
 24 inserting the following:

“682. Direct loans and loan guarantees.”.

1 **SEC. 204. PROPERTY OWNED BY AUXILIARY UNITS AND**
2 **DEDICATED SOLELY FOR AUXILIARY USE.**

3 Section 821 of title 14, United States Code, is
4 amended by adding at the end the following:

5 “(d) Subject to the approval of the Commandant:

6 “(1) The Coast Guard Auxiliary and each orga-
7 nizational element and unit (whether or not incor-
8 porated), shall have the power to acquire, own, hold,
9 lease, encumber, mortgage, transfer, and dispose of
10 personal property for the purposes set forth in sec-
11 tion 822. Personal property owned by the Auxiliary
12 or an Auxiliary unit, or any element thereof, whether
13 or not incorporated, shall at all times be deemed to
14 be property of the United States for the purposes of
15 the statutes described in paragraphs (1) through (6)
16 of subsection (b) while such property is being used
17 by or made exclusively available to the Auxiliary as
18 provided in section 822.

19 “(2) Personal property owned by the Auxiliary
20 or an Auxiliary unit or any element or unit thereof,
21 shall not be considered property of the United States
22 for any other purpose or under any other provision
23 of law except as provided in sections 821 through
24 832 and section 641 of this title. The necessary ex-
25 penses of operation, maintenance and repair or re-

1 placement of such property may be reimbursed using
2 appropriated funds.

3 “(3) For purposes of this subsection, personal
4 property includes, but is not limited to, motor boats,
5 yachts, aircraft, radio stations, motorized vehicles,
6 trailers, or other equipment.”.

7 **SEC. 205. COAST GUARD AUXILIARY UNITS AS INSTRUMEN-**
8 **TALITIES OF THE UNITED STATES FOR TAX-**
9 **ATION PURPOSES.**

10 Section 821(a) of title 14, United States Code, is
11 amended by inserting “The Auxiliary and each organiza-
12 tional element and unit shall be deemed to be instrumen-
13 talities and political subdivisions of the United States for
14 taxation purposes and for those exemptions as provided
15 under section 107 of title 4, United States Code.” after
16 the second sentence.

17 **TITLE III—LAW ENFORCEMENT,**
18 **MARINE SAFETY, AND ENVI-**
19 **RONMENTAL PROTECTION**

20 **SEC. 301. MARKING OF UNDERWATER WRECKS.**

21 Section 15 of the Act of March 3, 1899 (30 Stat.
22 1152; 33 U.S.C. 409), is amended—

23 (1) by striking “day and a lighted lantern” in
24 the second sentence inserting “day and, unless oth-

1 erwise granted a waiver by the Commandant of the
 2 Coast Guard, a light”; and

3 (2) by adding at the end “The Commandant of
 4 the Coast Guard may waive the requirement to mark
 5 a wrecked vessel, raft, or other craft with a light at
 6 night if the Commandant determines that placing a
 7 light would be impractical and granting such a waiv-
 8 er would not create an undue hazard to naviga-
 9 tion.”.

10 **SEC. 302. PORTS AND WATERWAYS PARTNERSHIPS; COOP-**
 11 **ERATIVE VENTURES.**

12 Section 4 of the Ports and Waterways Safety Act (33
 13 U.S.C. 1223), is amended—

14 (1) by striking “and” after the semicolon in
 15 subsection (a)(4)(D);

16 (2) by striking “environment.” in subsection
 17 (a)(5) and inserting “environment;”;

18 (3) by adding at the end of subsection (a) the
 19 following:

20 “(6) may carry out the functions under para-
 21 graph (1) of this subsection, at the Secretary’s dis-
 22 cretion and on such terms and conditions as the Sec-
 23 retary deems appropriate, either solely, or in co-
 24 operation with a public or private agency, authority,
 25 association, institution, corporation, organization, or

1 persons, except that a non-governmental entity may
2 not carry out an inherently governmental function;
3 and

4 “(7) may, for the purpose of carrying out the
5 Secretary’s functions under paragraph (1) of this
6 subsection, convey or lease real property under the
7 administrative control of the Coast Guard to public
8 or private agencies, authorities, associations, institu-
9 tions, corporations, organizations, or persons for
10 such consideration and upon such terms and condi-
11 tions as the Secretary considers appropriate, except
12 that the term of any such lease shall not exceed 20
13 years.”; and

14 (4) by adding at the end the following:

15 “(e) SPECIAL PROVISIONS RELATING TO SUB-
16 SECTION (a)(6) AND (7).—

17 “(1) DEFINITION OF INHERENTLY GOVERN-
18 MENTAL FUNCTION.—For purposes of subsection
19 (a)(6), the term ‘inherently governmental function’
20 means any activity that is so intimately related to
21 the public interest as to mandate performance by an
22 officer or employee of the Federal Government, in-
23 cluding an activity that requires either the exercise
24 of discretion in applying the authority of the Gov-

ernment or the use of judgment in making a decision for the Government).

“(2) DISPOSITION OF PROCEEDS FROM CONVEYANCES AND LEASES.—Amounts collected under subsection (a)(7) shall be credited to a special fund in the Treasury and ascribed to the Coast Guard. The amounts collected shall be available to the Coast Guard’s ‘Operating Expenses’ account without further appropriation and without fiscal year limitation, and the amounts appropriated from the general fund for that account shall be reduced by the amounts so collected.

“(3) NONAPPLICATION OF CERTAIN ACTS.—A conveyance or lease of real property under subsection (a)(7) is not subject to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), or the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).”.

SEC. 303. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking “owners and masters” and inserting “owners, masters, and charterers”.

1 **SEC. 304. REVISION OF TEMPORARY SUSPENSION CRITERIA**
2 **IN SUSPENSION AND REVOCATION CASES.**

3 Section 7702(d)(1) of title 46, United States Code,
4 is amended—

5 (1) by striking “if, when acting under the au-
6 thority of that license, certificate, or document—”
7 and inserting “if—”;

8 (2) by striking “has” in subparagraph (B)(i)
9 and inserting “has, while acting under the authority
10 of that license, certificate, or document,”;

11 (3) by striking “or” at the end of subparagraph
12 (B)(ii);

13 (4) by striking “1982.” in subparagraph
14 (B)(iii) and inserting “1982; or”; and

15 (5) by adding at the end of subparagraph (B)
16 the following:

17 “(iv) is a threat to the safety or security
18 of a vessel or a public or commercial structure
19 located within or adjacent to the marine envi-
20 ronment.”.

21 **SEC. 305. REVISION OF BASES FOR SUSPENSION & REVOCA-**
22 **TION CASES.**

23 Section 7703 of title 46, United States Code, is
24 amended—

25 (1) by striking “incompetence” in paragraph
26 (1)(B);

1 (2) by striking “or” after the semicolon in
2 paragraph (2);

3 (3) by striking “1982.” in paragraph (3) and
4 inserting “1982;”; and

5 (4) by adding at the end the following:

6 “(4) has committed an act of incompetence; or

7 “(5) is a threat to the safety or security of a
8 vessel or a public or commercial structure located
9 within or adjacent to the marine environment.”.

10 **SEC. 306. REMOVAL OF MANDATORY REVOCATION FOR**
11 **PROVED DRUG CONVICTIONS IN SUSPENSION**
12 **& REVOCATION CASES.**

13 Section 7704(b) of title 46, United States Code, is
14 amended by inserting “suspended or” after “shall be”.

15 **SEC. 307. RECORDS OF MERCHANT MARINERS’ DOCU-**
16 **MENTS.**

17 Section 7319 of title 46, United States Code, is
18 amended by striking the second sentence.

19 **SEC. 308. EXEMPTION OF UNMANNED BARGES FROM CER-**
20 **TAIN CITIZENSHIP REQUIREMENTS.**

21 (a) Section 12110(d) of title 46, United States Code,
22 is amended by inserting “or an unmanned barge operating
23 outside of the territorial waters of the United States,”
24 after “recreational endorsement,”.

1 (b) Section 12122(b)(6) of title 46, United States
 2 Code, is amended by inserting “or an unmanned barge op-
 3 erating outside of the territorial waters of the United
 4 States,” after “recreational endorsement,”.

5 **SEC. 309. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS**
 6 **OF CERTAIN BRIDGE STATUTES.**

7 (a) Section 5(b) of the Bridge Act of 1906 (33 U.S.C.
 8 495) is amended by striking “\$1,000.” and inserting
 9 “\$25,000.”.

10 (b) Section 5(c) of the Act entitled “An Act making
 11 appropriations for the construction, repair, and preserva-
 12 tion of certain public works on rivers and harbors, and
 13 for other purposes”, approved August 18, 1894 (33
 14 U.S.C. 499), is amended by striking “\$1,000.” and insert-
 15 ing “\$25,000.”.

16 (c) Section 18(c) of the Act entitled “An Act making
 17 appropriations for the construction, repair, and preserva-
 18 tion of certain public works on rivers and harbors, and
 19 for other purposes”, enacted March 3, 1899 (33 U.S.C.
 20 502), is amended by striking “\$1,000.” and inserting
 21 “\$25,000.”.

22 (d) Section 510(b) of the General Bridge Act of 1946
 23 (33 U.S.C. 533) is amended by striking “\$1,000.” and
 24 inserting “25,000.”.

1 **SEC. 310. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH**
2 **RECREATIONAL VESSEL AND ASSOCIATED**
3 **EQUIPMENT SAFETY STANDARDS.**

4 Section 4311 of title 46, United States Code, is
5 amended—

6 (1) by striking the first sentence of subsection
7 (b) and inserting “(1) A person violating section
8 4307(a) of this title is liable to the United States
9 Government for a civil penalty of not more than
10 \$5,000, except that the maximum civil penalty may
11 be not more than \$250,000 for a related series of
12 violations.”;

13 (2) by striking “4307(a)(1),” in the second sen-
14 tence of subsection (b) and inserting “4307(a),”:

15 (3) by redesignating paragraphs (1) and (2) of
16 subsection (b) as subparagraphs (A) and (B), re-
17 spectively;

18 (4) by adding at the end of subsection (b) the
19 following:

20 “(2) Any person, including, a director, officer, or ex-
21 ecutive employee of a corporation, who knowingly and will-
22 fully violates section 4307(a) of this title, shall be fined
23 not more than \$10,000, imprisoned for not more than one
24 year, or both.”; and

25 (5) by striking “\$1,000.” in subsection (c) and
26 inserting “\$5,000.”.

1 **SEC. 311. OIL SPILL LIABILITY TRUST FUND; EMERGENCY**
 2 **FUND.**

3 Section 6002(b) of the Oil Pollution Act of 1990 (33
 4 U.S.C. 2752(b)) is amended by striking “\$50,000,000”
 5 and inserting “\$150,000,000”.

6 **SEC. 312. LAW ENFORCEMENT POWERS.**

7 (a) IN GENERAL.—Chapter 5 of title 14, United
 8 States Code, is amended by inserting after section 95 the
 9 following:

10 **“§95a. Law enforcement powers**

11 “(a) IN GENERAL.—Subject to guidelines approved
 12 by the Secretary and the Attorney General, members of
 13 the Coast Guard may, in the performance of official du-
 14 ties—

15 “(1) carry firearms;

16 “(2) make arrests without warrant for any of-
 17 fense against the United States committed in their
 18 presence, or for any felony cognizable under the laws
 19 of the United States if they have reasonable grounds
 20 to believe that the person to be arrested has com-
 21 mitted or is committing such felony; and

22 “(3) seize property as provided by law.

23 “(b) APPLICATION WITH OTHER AUTHORITY.—The
 24 provisions of this section are in addition to any powers
 25 conferred by law upon such officers, and not in limitation

1 of any powers conferred by law upon such officers, or any
 2 other officers of the United States.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-
 4 ysis for chapter 5 of title 14, United States Code, is
 5 amended by inserting after the item relating to section 95
 6 the following:

“95a. Law enforcement powers.”.

7 **SEC. 313. CORRECTION TO DEFINITION OF FEDERAL LAW**
 8 **ENFORCEMENT AGENCIES IN THE ENHANCED**
 9 **BORDER SECURITY AND VISA ENTRY RE-**
 10 **FORM ACT OF 2002.**

11 Paragraph (4) of section 2 of the Enhanced Border
 12 Security and Visa Entry Reform Act of 2002, Public Law
 13 107–173, is amended by striking subparagraph (G) and
 14 inserting the following:

15 “(G) The United States Coast Guard.”.

16 **TITLE IV—MISCELLANEOUS**

17 **SEC. 401. CONVEYANCE OF LIGHTHOUSES.**

18 Section 308(c) of the National Historic Lighthouse
 19 Preservation Act of 2000 (16 U.S.C. 470w–7(c)) is
 20 amended by adding at the end the following:

21 “(4) LIGHTHOUSES ORIGINALLY CONVEYED UNDER
 22 OTHER AUTHORITY.—Upon receiving notice of an exe-
 23 cuted or intended conveyance by sale, gift, or any other
 24 manner of a lighthouse conveyed under authority other
 25 than this Act, the Secretary shall review the executed or

1 proposed conveyance to ensure that any new owner will
2 comply with any and all conditions of the original convey-
3 ance. If the Secretary determines that the new owner has
4 not or is unable to comply with those conditions the Sec-
5 retary shall immediately invoke any reversionary interest
6 or take such other action as may be necessary to protect
7 the interests of the United States.”.

8 **SEC. 402. Loran-C.**

9 There are authorized to be appropriated to the De-
10 partment of Transportation, in addition to funds author-
11 ized for the Coast Guard for operation of the Loran-C sys-
12 tem, for capital expenses related to Loran-C navigation
13 infrastructure, \$25,000,000 for fiscal year 2004. The Sec-
14 retary of Transportation may transfer from the Federal
15 Aviation Administration and other agencies of the Depart-
16 ment funds appropriated as authorized under this section
17 in order to reimburse the Coast Guard for related ex-
18 penses.

○